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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,335	09/30/2003	Zhen Liu	YOR920030408US1	4639
Paradonials Wi	7590 05/17/2007		EXAM	INER .
Frederick W. Gibb, III McGinn & Gibb, PLLC Suite 304 2568-A Riva Road			BOAKYE, ALEXANDER O	
			ART UNIT	PAPER NUMBER
	Annapolis, MD 21401		2616	<u> </u>
			MAIL DATE	DELIVERY MODE
			05/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		ET)					
	Application No.	Applicant(s)					
	10/674,335	LIU ET AL.					
Office Action Summary	Examiner	Art Unit					
0	ALEXANDER BOAKYE	2616					
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address					
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim vill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	l. lely filed the mailing date of this communication. D (35 U.S.C. § 133).					
Status		·					
1) Responsive to communication(s) filed on 30 Se	eptember 2003.						
2a) This action is FINAL . 2b) ☑ This	· · · · · · · · · · · · · · · · · · ·						
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is							
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	33 O.G. 213.					
Disposition of Claims							
4) Claim(s) 1-32 is/are pending in the application.							
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6)⊠ Claim(s) <u>1-32</u> is/are rejected.							
7) Claim(s) is/are objected to.							
8) Claim(s) are subject to restriction and/or	8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers							
9) The specification is objected to by the Examiner.							
10) The drawing(s) filed on is/are: a) accepted or b) dijected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correct	· · · · · · · · · · · · · · · · · · ·						
11)☐ The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.					
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign	priority under 35 U.S.C. § 119(a)	-(d) or (f).					
a) ☐ All b) ☐ Some * c) ☐ None of:							
1. Certified copies of the priority documents							
2. Certified copies of the priority documents	• •						
3. Copies of the certified copies of the prior	•	ed in this National Stage					
application from the International Bureau * See the attached detailed Office action for a list	• • • • • • • • • • • • • • • • • • • •	, and					
dee the attached detailed Office action for a list	or the certified copies not receive	···					
Attachment(s)	•						

U.S. Patent and Trademark Office PTOL-326 (Rev. 08-06)

1) Notice of References Cited (PTO-892)

Paper No(s)/Mail Date _

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite encoding the distribution tree to produce an encoded distribution tree; creating a header including the encoded distribution tree; adding the header to a data packet to be distributed to the distribution tree with the only difference between claim 1 of the instant

application and claim 1 of the copending application being that claim 1 of the instant application recites modifying the header as the data packet is distributed down the distribution tree to repair the distribution tree while the copending application does not anticipate such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using the claim of the copending application for efficient delivery of packet to end users.

Claim 3 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite modifying the header as said the packet is distributed down the distribution tree to remove encoded information concerning upper distribution levels of the distribution tree.

Claim 4 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 3 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite decoding a portion of the encoded distribution tree as a node receives the data packet and re-encoding the encoded distribution tree as the node passes the data packet to another node down the distribution tree.

Claim 5 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite that the distribution tree controls the order in which the nodes receive the data packets.

Claim 6 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 5 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite controlling the order in which said nodes receive the data packets, the encoded distribution tree permits the nodes to process the data packets upon receipt.

Claims 7, 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 6,19 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite prior to the encoding process, creating the distribution tree at a sender node based upon a dynamic group of receiver nodes.

Claims 8, 24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7, 20 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite that

the encoding comprises sequentially entering addresses of nodes during a per-level traversal of the distribution tree starting from the root of the distribution tree.

Claim 9 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite encoding the distribution tree to produce an encoded distribution tree; creating a header including the encoded distribution tree; adding the header to a data packet to be distributed to the distribution tree with the only difference between claim 9 of the instant application and claim 8 of the copending application being that claim 9 of the instant application recites modifying the header as the data packet is distributed down the distribution tree to repair the distribution tree while the copending application recites processing the encoded distribution tree. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using the claim of the copending application for the benefit of delivery of data packets to right destination.

Claims 11,19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 9 of copending

Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite modifying the header as said the packet is distributed down the distribution tree to remove encoded information concerning upper distribution levels of the distribution tree.

Claims 12, 20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 10 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite decoding a portion of the encoded distribution tree as a node receives the data packet and re-encoding the encoded distribution tree as the node passes the data packet to another node down the distribution tree.

Claims 13, 21 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 11 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite that the distribution tree controls the order in which the nodes receive the data packets.

Claim 14 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 12 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably

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which said nodes receive the data packets, the encoded distribution tree permits the nodes to process the data packets upon receipt.

Claim 15 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 13 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite prior to the encoding process, creating the distribution tree at a sender node based upon a dynamic group of receiver nodes.

Claim 16 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 14 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite that the encoding comprises sequentially entering addresses of nodes during a per-level traversal of the distribution tree starting from the root of the distribution tree.

Claim 17 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 15 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite encoding the distribution tree to produce an encoded distribution tree; creating a header including the encoded distribution tree; adding the header to a data packet to be distributed

to the distribution tree with the only difference between claim 17 of the instant application and claim15 of the copending application being that claim 17 of the instant application recites detected failed nodes and modifying the header while the copending application discloses decoding a portion of the encoded distribution tree and re-encoding the distribution tree. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using the claim of the copending application for benefit of delivery of data packets to right destination.

Claim 22 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 18 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite controlling the order in which said nodes receive the data packets, the encoded distribution tree permits the nodes to process the data packets upon receipt.

Claim 25 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 21 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite encoding the distribution tree to produce an encoded distribution tree; creating a header including the encoded distribution tree; adding the header to a data packet to be distributed to the distribution tree with the only difference between claim 25 of the instant

application and claim 21 of the copending application being that claim 25 of the instant application recites detected failed nodes and modifying the header while the copending application discloses decoding a portion of the encoded distribution tree and re-encoding the distribution tree. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using the claim of the copending application for the benefit of delivery data packet to right destination.

Claim 27 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 22 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite modifying the header as said the packet is distributed down the distribution tree to remove encoded information concerning upper distribution levels of the distribution tree.

Claim 28 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 23 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite decoding a portion of the encoded distribution tree as a node receives the data packet and re-encoding the encoded distribution tree as the node passes the data packet to another node down the distribution tree.

Claim 29 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 24 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite that the distribution tree controls the order in which the nodes receive the data packets.

Claim 30 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 25 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite controlling the order in which said nodes receive the data packets, the encoded distribution tree permits the nodes to process the data packets upon receipt.

Claim 31 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 26 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite prior to the encoding process, creating the distribution tree at a sender node based upon a dynamic group of receiver nodes.

Claim 32 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 27 of copending Application No. 10/674,334. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite that the encoding

comprises sequentially entering addresses of nodes during a per-level traversal of the distribution tree starting from the root of the distribution tree.

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

2. The Applicant is required to provide serial number to pending U.S. Patent application at page 1 of the specification.

Claim Objections

3. Claim 25-32 are objected to because of the following informalities.

In claim 25, (lines 1-2), the examiner suggests that "A computer storage device readable by machine, tangibly embodying a program of instructions executable by the machine" should be changed to computer readable medium embodied with a computer program. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crawley et al. (US Patent # 5,995,503) in view of Lee Jr. et al. (US Patent # 6,798,739).

Regarding claims 1 and 2, Crawley teaches a method of stateless group communication and data packets to nodes in a distribution tree (Figs. 11 and 12), the method comprising: encoding the distribution tree to produce an encoded distribution tree (column 10, lines 49-60 and column 11, lines 1-8); creating a header including the encoded distribution tree (column 10, lines 56-59); adding the header to a data packet to be distributed to the distribution tree (column 10, lines 38-45); and modifying the header as the data packet is distributed down the distribution tree (column 12, lines 1-10 and column 12, lines 48-51). Crawley differs from the claimed invention in that Crawley does not disclose repair of distribution tree. However, Lee discloses repair of distribution tree (column 5, lines 12-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Crawley to include the feature of repair of distribution tree such as the one taught by Lee with motivation being that it provides capability for the system to reduce latency.

Regarding claim 3, Crawley further teaches modifying the header as the data packet is distributed down the distribution tree to remove encoded information concerning upper distribution levels of the distribution tree (column 10, lines 30-37 and column 11, line 62-column 12, lines 1-5).

Regarding claim 5, Crawley further teaches that the distribution tree controls the order in which the nodes receive the data packets (column 10, line 61-column 11, lines 1-8).

Regarding claim 6, Crawley teaches that by controlling the order in which the nodes receive the packets, the encoded distribution tree permits the nodes to process the data packets upon receipt (column 10, line 61-column 11, lines 1-8).

Regarding claim 7, Crawley teaches that prior to the encoding process, creating the distribution tree at a sender node based upon a dynamic group of receiver nodes (column 10, lines 56-59).

Regarding claim 8, Crawley teaches the encoding comprises sequentially entering addresses of nodes during a per-level traversal of the distribution tree starting from the root of the distribution tree (column 11, lines 1-8).

5. Claims 9-11, 13-19, 21-27, 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crawley et al. (US Patent # 5,995,503) in view of Auerbach et al. (US Patent # 5,355,371).

Regarding claims 9, 10, Crawley teaches a method of stateless group communication of data packets to nodes in a distribution tree, the method comprising: encoding the distribution tree to produce an encoded distribution tree (column 10, lines 49-60); creating a header including the encoded distribution tree (column 10, lines 56-59); adding the header to the data packet to be distributed to the distribution tree (column 10, lines 38-45); modifying the header as the data packet is distributed down the distribution tree (column 12, lines 1-10 and column 12, lines 12-16). Crawley differs from the claimed invention in that Crawley does not disclose detecting failed nodes and remove the failed node. However, Auerbach discloses detecting failed nodes and

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remove failed node (column 10, lines 18-33). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Crawley to include the feature of detecting failed nodes and remove the failed node such as the one taught by Auerbach with motivation being that it provides an improved configuration, thus reducing delays in packet delivery.

Regarding claim 11, Crawley further teaches modifying comprises modifying the header as the data packet is distributed down said distribution tree to remove encoded information concerning upper distribution levels of the distribution tree (column 10, lines 30-37 and column 11, line 62-column 12, lines 1-5).

Regarding claim13, Crawley further teaches that the distribution tree controls the order in which the nodes receive said data packets (column 10, lines 30-37 and column 11, line 62-column 12, lines 1-5).

Regarding claim 14, Crawley further teaches that by controlling the order in which the nodes receive the data packets, the encoded distribution tree permits the nodes to process the data packets upon receipt (column 10, line 61-column 11, lines 1-8).

Regarding claim 15, Crawley further teaches that, prior to the encoding process, creating the distribution tree at a sender node based upon a dynamic group of receiver nodes (column 10, lines 56-59).

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Regarding claims 16, 22, Crawley further teaches that the encoding comprises sequentially entering addresses of nodes during a per-level traversal of the distribution tree starting from the root of the distribution tree (column 11, lines 1-8).

Regarding claims 17, 18, Crawley further teaches a method of stateless group communication of data packets to nodes in a distribution tree, the method comprising: encoding the distribution tree to produce an encoded distribution tree (column 10, lines 49-60 and column 11, lines 1-8); creating a header including the encoded distribution tree (column 10, lines 56-59); adding the header to a data packet to be distributed to the distribution tree (column 10, lines 38-45); modifying said header as said data packet is distributed down the distribution tree (column 12, lines 1-10 and column 12, lines 12-16). Crawley differs from the claimed invention in that Crawley does not teach detecting failed nodes down said distribution tree. However, Auerbach from the same field of endeavor discloses detecting failed nodes down the distribution tree (column 10, lines 18-33). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Crawley to include the feature of detecting failed nodes down the distribution tree such a s the one taught by Auerbach

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with motivation being that it provides an improved configuration, thus reducing delays in packet delivery.

Claim 19 is met as previously discussed with respect to claim 11.

Claim 21 is met as previously discussed with respect to claim 13.

Claim 22 is met as previously discussed with respect to claim 14.

Claim 23 is met as previously discussed with respect to claim 15.

Claim 24 is met as previously discussed with respect to claim 16.

Regarding claims 25, 26, Crawley teaches a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform a method of extracting circuit characteristics from a circuit design, the method comprises establishing transmission headers for stateless group communication of data packets to nodes in a distribution tree, the method comprising: encoding the distribution tree to produce an encoded distribution tree (column 10, lines 49-60 and column 11, lines 1-8); creating a header including the encoded distribution tree (column 10, lines 56-59); adding the header to a data packet to be distributed to said distribution tree (column 10, lines 38-45); modifying the header as the data packet is distributed down said distribution (column 12, lines 1-10 and column 12, lines 12-16). Crawley differs from the claimed invention in that Crawley does not teach detecting failed nodes down said

distribution tree. However, Auerbach from the same field of endeavor discloses detecting failed nodes down the distribution tree (column 10, lines 18-33). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Crawley to include the feature of detecting failed nodes down the distribution tree such a s the one taught by Auerbach with motivation being that it provides an improved configuration, thus reducing delays in packet delivery.

Regarding claim 27, Crawley further teaches that the modifying comprises modifying the header as the data packet is distributed down the distribution tree to remove encoded information concerning upper distribution levels of the distribution tree (column 10, lines 30-37 and column 11, line 62-column 12, lines 1-5).

Regarding claim 29, Crawley further teaches that the distribution tree controls the order in which said nodes receive said data packets (column 10, line 61-column 11, lines 1-8).

Regarding claim 30, Crawley further teaches that by controlling the order in which the nodes receive the data packets, the encoded distribution tree permits the nodes to process the data packets upon receipt (column 10, line 61-column 11, lines 1-8).

Regarding claim 31, Crawley further teaches, prior to the encoding

process, creating the distribution tree at a sender node based upon a dynamic group of receiver nodes (column 10, lines 56-59).

Regarding claim 32, Crawley further teaches that the encoding comprises sequentially entering addresses of nodes during a per-level traversal of the distribution tree starting from the root of the distribution tree (column 11, lines 1-8).

Allowable Subject Matter

6. Claims 4, 12, 20, 28 would be allowable if rewritten to overcome the double patenting rejection and objection, set forth in this Office action .

Conclusion

7. The prior art of made of record and not relied upon is considered pertinent to Applicant's disclosure.

O'Toole et al. (US Patent #7,185,077) discloses mechanism for splicing trees.

Li (US Patent # 6,751,747) discloses system, device, and method for detecting and recovering from failures in a multicast communication system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Boakye whose telephone number is (571)

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272-3183. The examiner can normally be reached on M-F from 8:30am to 6:00pm. If

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attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chi Pham, can be reached on (571) 272-3179. The Fax number is (571)

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Any

inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the Electronic Business Center (EBC) numbers at 866-217-

9197 and 703-305-3028.

Alexander Boakye

Patent Examiner

5/13/07